

US.Pat.Apl.Nr 10/759,164

Docket: 433-11US

Remarks
submitted March 2006

[001] This is in response to the **Final** Office Action dated 25 November 2005, and follows an Advisory Action that was courtesy-faxed to us 17 February 2006.

[002] **Amendments** (none at this time)

[003] Re the materials submitted 24 Jan 2006, the A/A states: The amendments to the claims do not at the outset appear to place the case in condition for allowance, because while independent claim 1 has been amended none of the subject matter indicated as allowable in the previous action appears to be added to claim 1. Further, other dependant claims have been significantly amended and claims 20 & 21 have been added. All these changes to the claims require further search and consideration.

We ask that the PTO position, as above, be reconsidered, for the following reasons.

[004] In our response filed 24 Jan 2006, in parag [003] thereof, we requested that the **finality** of the O/A dated 25 Nov 2005 be withdrawn. The rejection under 35 USC was introduced for the first time in the O/A of 25 Nov, and it seems perfectly clear to us that therefore the finality should be withdrawn. The Advisory says nothing about why this request has been refused.

[005] As to the amendments to the claims that the PTO considers to be "significant", we ask for the following to be considered.

[006] The major amendment to claim 1 is that, previously, we were using the word "trays" to refer to the open chambers defined by our support framework. We will concede that this was an unhappy choice of term, because it might be legitimate to so construe the word "tray" as to encompass the pull-out baskets as disclosed by Giordano.

So, we changed "trays" to "tray chambers", in the amendments filed 24 January 2006. Thus, amended claim 1 now IS patentably distinguished from Giordano.

We feel this amendment should not be regarded as introducing a new issue, requiring further consideration, since it has been clear from our previous submissions that incorporating the tray chambers into the support framework was the difference over the prior art that we ourselves regarded as a major distinguishing feature. The pull-out baskets of Giordano were only included within the scope of claim 1, not for any technical reason, but simply due to an unhappy choice of term. Furthermore, our amendment could hardly be said to require a new search, since the PTO has already carried out the search that uncovered the very-relevant Giordano.

[007] In claim 1, we removed "metal" as a limitation from claim 1. Surely, the examiner does not consider that a "significant" change, i.e significant in that it requires further search and further consideration.

[008] The amendment to claim 7 is consequent on the change from "trays" to "tray chambers" in claim 1, and surely cannot be considered significant in itself.

[009] The amendment to claim 17 is due to the fact that I had inadvertently recited the open and closed conditions the wrong way round, so this amendment should be regarded as the correction of an obvious error, and therefore not significant.

[0010] New claim 20 should be allowable because it depends on claim 17, which is already allowed.


[0011] New claim 21 should be allowable because it depends on claim 1, which is (or should be) now allowable.

(We would agree that, IF claim 1 is NOT allowed, then it would be proper to regard new claim 21 as introducing a new issue, and requiring a new search.)

[0012] In short, based on the above, we first request that the finality of the 25 Nov 2005 office Action be withdrawn.

Second, in the event that the PTO refuses this request, we feel the amendments of 24 Jan CAN BE entered and considered, even under Final status, for the above reasons. We feel the changes introduced by the amendments do NOT raise new issues and/or require further search, for the reasons stated, and we feel the amendments DO place the case clearly in condition for allowance. We request that this patent application now go through to allowance and grant.

Submitted by:


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Enclo: (none)